IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 13210 of 1998

Between:

M.Venkatareddy, S/o M.Satyanarayanareddy,

Aged about 31Yrs., R/o Nomule Village, Nakkerikal Mandal,

Nalgonda District.

..... PETITIONER

AND

1. The Government of A.P., rep., by its Secretary, Women Development & Child Welfare Department, Secretariat, Hyderabad.
2. The Commissioner of Labour, Andhra Pradesh, Chikkadapally, Hyderabad.
3. The Managing Direcotr, A.P.Vikalangula Coopearative Corporation, A.P., Hyderabad.
4. The Director of Welfare of Handicapped,

A.P., Hyderabad.

5. The District Manager, A.P.Vikalangula

Coopearative Corporation, Nalgonda, Nalgonda District.

6. The Project Officer,Training-cum-Production Center,

Nalgonda, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus declaring that (a) proceedings of the Commissioner of Labour in No.E3/3461/98, dated 2-4-1998, wherein he held that the A.P.Vikalangula Co-operative corporation could not fall within the definition of Industrial Establishment within the meaning of Section 25(L) of the Industrial Dispute Act is as illegal and further held that the said finding is unwarranted (b) declare that petitioner is entitled to continue in service and further held that any attempt to terminate or retrenchment of the petitioner as illegal, discriminatory and violative of Article 14 and 16 of the Constitution of India apart from it being violative of Sections 25(N) and Section 25(F) of the Industrial Disputes Act and pass such order or further orders as this Hon'ble Court may deem fit.

Counsel for the Petitioner: MR.M.SURENDER RAO

Counsel for the Respondent No.1 : G.P. for Women Development and child welfare

Counsel for the Respondents No.2 to 6 : MR.K.RAMANUJA CHARI

The Court made the following :

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ORDER:

The only question that falls for consideration in this writ petition is whether before terminating the services of the petitioner, management was supposed to get permission as required under Section 25-N of the Industrial Disputes Act, 1947 (for brevity 'the Act').

This matter was elaborately dealt with by the second respondent in the impugned proceedings dated 02.04.1998, while examining various provisions of law and held that the provisions of Section 25-N of the Act have no application to the A.P. Vikalangula Co-operative Corporation. Therefore, there is no necessity of obtaining any permission to retrench the 407 employees under Section 25-N of the Act. Aggrieved by the same, the present writ petition is filed.

Heard both the counsel.

For better appreciation of the case, it is necessary to look into Section 25-L, which reads as under:

25-L Definitions : - For the purpose of this Chapter

a. " industrial establishment means:-

i. a factory as defined in clause (m) of Section 2 of the Factories Act, 1948 (63 of 1948);

ii. a mine as defined in clause (j) of Sub-Section (1) of Section 2 of the Mines Act, 1952 (35 of1952); or

iii. a plantation as defined in clause (f) of Section 2 of the Plantations Labour Act, 1951 (69 of 1951)

b. notwithstanding anything contained in sub-clause (i) of clause (a) of Section 2:-

i. in relation to any company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government; or

ii. in relation to any corporation (not being a corporation referred to in Sub-clause (i) of clause (a) of Section 2) established by or under any law made by Parliament.

The Central Government shall be the appropriate Government.

A plain reading of the above Section itself would show that A.P. Vikalangula Co-operative Corporation does not fall within that definition, and as such, the question of obtaining prior permission for termination of services of employees under Section 25-N of the Act or issuance of notice of three months under Section 25-N of the Act does not arise.

It is brought to my notice by the learned counsel for the respondent-A.P. Vikalangula Cooperative Corporation, that the petitioner has been issued with a notice under Section 25-F of the Act and one month salary and compensation as required therein have already been paid. However, the said amount, which was received by the petitioner was repaid to the organization in view of the order passed by this Court and the petitioner is being continued in service as on this date. Under these circumstances, I am of the opinion that the respondent-organisation may issue fresh notice as required under Section 25-F of the Act along with one month's pay or notice and compensation as contemplated therein if they are so advised to terminate the services of the petitioner.

Accordingly, the writ petition is disposed of. No order as to costs.

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14-10-2004

klp

To

1. The Secretary, Government of A.P.,
   Women Development & Child Welfare
   Department, Secretariat, Hyderabad.
2. The Commissioner of Labour, Andhra Pradesh,
   Chikkadapally, Hyderabad.
3. The Managing Direcotr, A.P.Vikalangula
   Coopearative Corporation, A.P., Hyderabad.
4. The Director of Welfare of Handicapped,
   A.P., Hyderabad.
5. The District Manager, A.P.Vikalangula
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